



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30303-3104

ENVIRONMENTAL ACCOUNTABILITY DIVISION  
SENDER'S FAX NUMBER (404) 562-9486

TELECOPY TRANSMITTAL SHEET

DATE: 11/24/99

NUMBER OF PAGES 5

TO: Russell V. Bandle

PHONE: \_\_\_\_\_

OFFICE: Patton Boggs LLP

FAX #: 202-457-6315

FROM: David Clay

PHONE: 404-562-9565

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

November 24, 1999

BY FACSIMILE AND US MAIL

Russell V. Randle  
Patton Boggs LLP  
2550 M Street, NW  
Washington, D.C. 20037

RE: Collierville Superfund Site; Tolling Agreement

Dear Mr. Randle:

Enclosed please find a copy of the Tolling Agreement for the above referenced Site. It has an effective date of November 24, 1999. The Statute of Limitations is tolled for the period from November 30, 1999, through March 31, 2000.

In the next couple of weeks I will be forwarding to you a proposed Cost Recovery Agreement to cover future costs incurred in overseeing work being performed at the Site under the Unilateral Administrative Order. I will also be sending you an estimate of what EPA believes the future costs will be. In addition EPA will be forwarding to you support documentation for the costs already incurred at the Site as a follow-up to our most recent bill.

Thank you again for Carrier's cooperation.

Sincerely,

A handwritten signature in dark ink, appearing to read "David K. Clay".

David K. Clay  
Senior Attorney

Enclosure

**TOLLING AGREEMENT FOR THE CARRIER AIR CONDITIONING  
SUPERFUND SITE**

This Tolling Agreement ("Agreement") is entered into between the Environmental Protection Agency ("EPA") on behalf of the United States of America ("United States"), and Carrier Corporation, a Delaware Corporation with an operation located at Collierville, Tennessee ("Carrier"). The undersigned representatives of the parties certify that s/he is fully authorized to enter into terms and conditions of the Agreement and to execute and bind the United States or Carrier, as the case may be, to this document. The purpose of this Agreement is to facilitate discussions between EPA and Carrier for response costs without recourse to litigation, if possible.

The Parties hereby agree as follows:

1. The United States contends that it presently has a potential cause of action against Carrier pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA"), 42 U.S.C. § 9607. The United States also contends that it will have future costs. These potential causes of action relate to reimbursement of costs with respect to the Carrier Air Conditioning Superfund Site located in Collierville, Tennessee ("Site"), and not to any other Site or matter.
2. EPA and Carrier enter into this Agreement in order to pursue good faith negotiations to attempt to resolve the United States' causes of action referred to in Paragraph One without litigation. It is acknowledged to be in the interest of the United States and Carrier to attempt to resolve any disagreements without litigation, if possible.
3. The United States and Carrier agree that the period of time commencing on November 30, 1999, and ending March 31, 2000, inclusive, shall not be included in computing the time limited by any statute of limitations for filing the causes of action generally described in Paragraph One of this Agreement, if any statute of limitations is applicable for such causes of action. Carrier also agrees that the period of time commencing on November 30, 1999, and ending on March 31, 2000, inclusive, will not be asserted in whole or in part, as a basis for a defense of laches or similar defense.

concerning the timeliness of commencing a civil action for recovery of the response costs incurred or to be incurred by the United States in connection with the Site. Carrier further agrees not to assert, plead, or raise against the United States in any fashion, whether by answer, motion, or otherwise, any defense or avoidance based on the running of any statute of limitations during the period of time commencing on November 30, 1999, and ending March 31, 2000, inclusive, and that any statute of limitations shall be tolled during and for the period of time commencing November 30, 1999, and ending March 31, 2000. This period shall not be included for the purposes of computing interest on any obligation which is agreed to or found to be due.

4. This Agreement does not constitute an admission of any fact or liability on the part of Carrier, nor does it affect the assertion of any defense to liability except as specifically provided in Paragraph Three of this Agreement. Carrier specifically reserves all its rights and defenses against any claims to be asserted by the United States, except as expressly tolled by this agreement, including the argument that the statute of limitations has already expired.
5. This Agreement does not constitute any admission or acknowledgment on the part of the United States regarding any fact relating to the statute of limitations under CERCLA, or any other applicable statute or laws, nor does it constitute an agreement by the United States that any defense to liability as to costs under CERCLA is available to the undersigned. The United States reserves the right to assert that no statute of limitations applies.
6. Upon two weeks written notice, the United States may terminate negotiations and commence suit at any time thereafter without affecting the waiver in Paragraph Three.
7. This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by any of the parties or agent of the parties that is not contained in this written contract shall be valid or binding, and this contract may not be enlarged, modified, or altered except in writing signed by the Parties and endorsed herein.

8. This Agreement shall be effective the 24 day of November, 1999.

FOR THE ENVIRONMENTAL PROTECTION AGENCY:

BY:

*James J. Hill*

11/24/99

Franklin E. Hill

Date

for Chief,

Program Services Branch

Waste Management Division

U.S. EPA Region 4

Carrier Air Conditioning Superfund Site Tolling Agreement  
Signature Page

Carrier Corporation consents to the terms and conditions  
of the Agreement on the 17<sup>th</sup> day of November, 1999.

BY: Samuel V. Standle  
(Name of Signing Party)

Outside Counsel per  
authorization from Robert Gatti, Esq.  
General Counsel of Carrier Corporation  
FOR: Carrier Corporation

(Address) Pattar Boggs LLP

2550 M Street NW

Washington, DC

20037